

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,) 8:09CR457
)
 vs.)
)
DESHAWN HERNANDEZ,)
a/k/a Latreise Anderson,)
)
 Defendant.)

**MOTION TO DIRECT
RELEASE OF VEHICLE**

COMES NOW the Plaintiff, United States of America, and respectfully requests this Court direct the U.S. Marshals Service to release a vehicle in its custody to the lienholder. In support of this Motion, the Plaintiff respectfully shows the Court as follows:

1. The Forfeiture Allegation in the Superseding Indictment (Filing No. 360) contains a reference to a 2007 GMC Yukon, VIN 1GKFK13067J129231, registered to Defendant, Deshawn Hernandez. On July 26, 2011, Ms. Hernandez filed a Response (Filing No. 948) stating she waived and released any claims she may have had to any of the real and personal properties set forth in the Forfeiture Allegation.

2. Pursuant to the Court's Preliminary Order (Filing No. 959), which directed the United States to give notice to any persons or entities known to have an interest in any of the property belonging to Ms. Hernandez, the United States provided notice to Chrysler Financial Services (Filing No. 1021), the lienholder on Ms. Hernandez's 2007 GMC Yukon.

3. On September 2, 2011, TD Auto Finance, successor-in-interest to Daimler Chrysler Financial Services Americas, L.L.C., filed a Petition to Recognize Lien (Filing No. 1034), alleging it has a purchase money security interest in said vehicle. TD Auto Finance also alleged the related promissory note is in default as of January, 2010.

4. The United States recognizes and acknowledges TD Auto Finance's first lien on the 2007 GMC Yukon. The United States also recognizes the related promissory note has been in default for almost two years. The United States respectfully submits that, since Ms. Hernandez has waived any interest she may have in the vehicle, the prudent course of action is to turn over the vehicle to the lender so it may recover its debt by whatever legal means it has available.

5. The United States represents the vehicle is in the custody of the U.S. Marshals Service, as custodian of seized property. In that capacity, the U.S. Marshals Service needs a court order directing release of property.

WHEREFORE, the Plaintiff, United States of America, respectfully requests this Court direct the U.S. Marshals Service to release the 2007 GMC Yukon, VIN 1GKFK13067J129231, currently in its custody to representatives of TD Auto Finance. The United States requests such other and further relief as this Court may deem just and equitable.

UNITED STATES OF AMERICA,
Plaintiff

DEBORAH R. GILG
United States Attorney

s/Nancy A. Svoboda

By:

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CERTIFICATE OF SERVICE

I hereby certify on October 27, 2011, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Mr. H.M. Whitesides, Jr., Attorney at Law.

I do hereby also certify I caused a true and correct copy of the foregoing to be mailed to Mr. Adam Wachal, Attorney at Law, 4885 South 118th Street, Suite 100, Omaha, Nebraska 68137, a non-CM/ECF participant, by having placed same in the U.S. Mail, properly addressed and postage prepaid, on October 27, 2011.

s/Nancy A. Svoboda

NANCY A. SVOBODA
Assistant United States Attorney